

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN JOSE WATER COMPANY (U 168 W) for an Order authorizing it to increase rates charged for water service by \$14,646,000 or 8.54% in 2007, by \$5,196,000 or 2.78% in 2008, and by \$6,246,000 or 3.26% in 2009.

Application 06-02-014
(Filed February 15, 2006)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

Pursuant to Rules 6(a) and 6.3 of the Commission's Rules of Practice and Procedure (Rule),¹ this ruling sets the procedural schedule, assigns the principal hearing officer, and addresses the scope of the proceeding following a prehearing conference (PHC) held on April 19, 2006, before the assigned Administrative Law Judge (ALJ). This ruling is appealable only as to category of the proceeding under the procedures in Rule 6.4.

¹ Unless otherwise indicated, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

Background

San Jose Water Company (SJW), a Class A water utility,² provides water services to residential and industrial customers in parts of San Jose and Cupertino, and in Campbell, Los Gatos, Monte Sereno, and Saratoga, as well as in contiguous territory in Santa Clara County. SJW's last general rate case was resolved by Decision (D.) 04-08-054.

SJW is a wholly-owned subsidiary of San Jose Water Corporation (SJW Corp.). The holding company also owns approximately 6% of California Water Service Group.

The instant application requests a general rate increase in a single district. The Commission's Division of Ratepayer Advocates (DRA) filed a timely protest to the application on March 21, 2006 and entered an appearance at the PHC. No other person or entity has moved to intervene.

Scope of the Proceeding

The scope of this proceeding will include the various components of the estimated revenue requirement and all other issues necessary to review and resolve the general rate case. SJW's application identifies three issues as potentially contentious:

- return on equity,
- total water production cost balancing account, and
- water quality memorandum account.

² A Class A water utility has more than 10,000 service connections.

As the proceeding moves forward, parties should develop the record with an eye toward explaining how the positions they take: (a) promote both reasonable rates and short- and long-term utility viability; (b) affect the utility's ability to ensure water quality in the short and long term; (c) increase customer and utility conservation incentives; (d) affect infrastructure development and investment; (e) moderate rate impacts on low-income customers; and (f) make the Commission's regulatory and decision-making processes more timely and efficient.

The schedule below does not provide for a public participation hearing (PPH), given the cost of providing special notice (approximately \$90,000, according to SJW's representation at the PHC), the very low customer attendance at the last PPH, and the limited number of customer communications received to date about this application. Customers may continue to express any concerns about this application by letter or email, as provided in the public notice, and all such communications will be reviewed and retained in the formal file for this proceeding.

However, since the need for special notice is attributable to the mismatch between SJW's billing cycle (every two months) and the timeline for providing notice under the rate case plan, SJW should develop a proposal to avoid the need for special notice in future. SJW should present the proposal in its rebuttal testimony, or if no rebuttal is prepared because of settlement, in the settlement document. Then, in future, the Commission may determine whether or not to set a PPH without having to include cost-prohibitive special notice in the equation.

Discovery

The Commission will not impose a discovery plan on the participants. Any discovery dispute which they cannot resolve between themselves, after a

good faith effort to meet and confer, may be raised by written motion in accordance with Rule 45 and Resolution ALJ-164. The Commission generally looks to the Code of Civil Procedure for guidance in resolving discovery disputes.

Schedule

With once exception, the schedule for this proceeding will be set in accordance with the parties' mutual proposal. This proposal makes some adjustments to the rate case plan schedule to accommodate DRA's staffing constraints and still permit a year-end Commission decision, in part by reducing the time provided for preparation and filing of the ALJ's proposed decision. The ALJ has agreed to file a proposed decision under this compressed timeline, workload permitting. The one change to the parties' proposed schedule, for the reasons discussed in the section below, is the requirement that the parties meet and confer at an initial settlement session before finalizing their prepared testimony, in order to ensure that they explore their differences early on, before their positions have hardened.

Date to be arranged by parties	Initial settlement negotiation held
June 13, 2006	DRA distributes Report (prepared testimony)
July 5, 2006	SJW distributes Rebuttal (prepared testimony)
July 6, 2006	Formal settlement negotiations begin
July 12, 2006, 9:00 a.m. – 3:30 p.m., to be continued day to day as necessary through July 18, 2006	Evidentiary Hearing, Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102
August 2, 2006	Concurrent initial briefs filed

August 8, 2006	Concurrent reply briefs filed; case submitted
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August 28, 2006	ALJ memo to Water Division, Advisory Branch
October 9, 2006	Water Division provides Tables
October 19, 2006	ALJ's Proposed decision filed
November 8, 2006	Comments on Proposed Decision
November 13, 2006	Replies to Comments
November 28, 2006	Proposed decision on Commission agenda for Commission vote

If SJW wishes to pursue a request to impose interim rates on January 1, 2007 (assuming if the Commission is not able to render a final decision on its rate cases by that date), it should file a separate motion concurrently with its opening brief and follow the criteria set forth in D.04-06-018.

Pub. Util. Code § 1701.5 provides generally for the resolution of ratesetting proceedings, such as this one, within 18 months from the date the application is filed. The schedule adopted here should allow the Commission to meet that goal.

Settlement

I have provided for an initial settlement negotiation, to be held at a time, date and location to be mutually agreed upon by the parties. Waiting until all parties have hardened their positions before serious discussions begin, not only generates more work in preparing testimony on topics that might be settled, but makes it more likely that the parties will bring those hardened positions into the hearing room. I believe that reasonable parties should be able to discuss their differences and arrive at commonly agreed-upon positions on many of their issues, if not most or all, well in advance of the evidentiary hearings. The Rate

Case Plan anticipates such discussion by providing additional time for what it terms “Formal Settlement Negotiations” beginning the week after the utility serves its Rebuttal. The adopted schedule includes the date the parties have selected for these subsequent settlement discussions.

Any settlement of the entire general rate all should be reflected in a written settlement agreement which includes all appendices, tables, and drafts of any tariffs needed to understand and implement the terms of the parties’ agreement. The parties should file a motion requesting adoption of the settlement agreement, with the settlement agreement attached.

If the parties agree to settle portions of this general rate case, they should memorialize the terms of their agreement in writing and should prepare a comparison agreement. The comparison exhibit should clearly identify any agreed-upon figures/amounts and show the location of those figures/amounts in the spreadsheet or model used to prepare appendices, tables, and draft tariffs. Water Division would prefer that this documentation is provided in Excel, if possible. Both Water Division and ALJ Division recommend the following document as a good model: *Joint Comparison Exhibit of Suburban Water Systems and the Office of Ratepayer Advocates*, filed January 10, 2003 in A.02-05-033.

Category of Proceeding and Need for Hearing

This ruling confirms that this is a ratesetting proceeding and that hearings are anticipated, as preliminarily determined in Resolution ALJ 176-3168, which was issued on March 2, 2006.

Assignment of Principal Hearing Officer

ALJ Jean Vieth will be the principal hearing officer.

Ex Parte Rules

Ex parte communications are permitted in ratesetting proceedings subject to the restrictions and reporting requirements in Pub. Util. Code § 1701.3(c) and Rule 7.

Oral Argument

Any party wishing to exercise the right under Rule 8(d) to make a final oral argument before the Commission must file a written request and serve it on all parties and the Assigned Commissioner and assigned ALJ not later than the last day of evidentiary hearing.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is set forth herein.
3. The principal hearing officer will be Administrative Law Judge Vieth.
4. This ruling confirms that this proceeding is a ratesetting proceeding and that hearings will be set.
5. Ex parte communications are permitted subject to the restrictions and reporting requirements in Pub. Util. Code § 1701.3(c) and Rule 7 of the Commission's Rules of Practice and Procedure.

6. Any party wishing to exercise the right under Rule 8(d) to make a final oral argument before the Commission must file a written request and serve it on all parties and the Assigned Commissioner and assigned ALJ not later than the last day of evidentiary hearing.

7. This ruling, only as to category, is appealable under the procedures in Rule 6.4.

Dated May 2, 2006, at San Francisco, California.

/s/ JOHN A. BOHN

John A. Bohn
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated May 2, 2006, at San Francisco, California.

/s/	FANNIE SID
	Fannie Sid

NOTICE

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.